

Assembly Hearing Slip

(Please print plainly)

Date: Jan. 17, 2002

Bill No. AB 624

Or Subject HISTORIC TAX CREDIT

Name Bob DENNIK

Street Address or Route Number 1 N. PINKNEY ST

City and Zip Code MADISON 53703

Representing WI RENTAL HOUSING LEGISLATIVE COUNCIL

Speaking in favor: ☐

Speaking against: ☐

Registering in favor: ☒

Registering against: ☐

Speaking for information only: ☐

Neither for nor against: ☐

Please promptly return this slip to the messenger at the committee.

Provided by:
Assembly Sergeant at Arms
411 West, State Capitol
Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date: 1/17/02

Bill No. LRB 3560 AB 624

Or Subject STATE TAX EXEMPTION WAREDA MULTIFAMILY BOWERS

Name GEOFF WHEELER

Street Address or Route Number 201 W. WASHINGTON

City and Zip Code MADISON WI 53703

Representing WAREDA

AVAILABLE FOR INFORMATION

Speaking in favor: ☐

Speaking against: ☐

Registering in favor: ☒

Registering against: ☐

Speaking for information only: ☐

Neither for nor against: ☐

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Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date: 1-17-02

Bill No. AB 624

Or Subject

Name Tom Ourada - DOR

Street Address or Route Number

City and Zip Code

Representing

Speaking in favor: ☐

Speaking against: ☐

Registering in favor: ☐

Registering against: ☐

Speaking for information only: ☒

Neither for nor against: ☐

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Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date: 1/17/01
Bill No. AB 624
Or
Subject HISTORIC RICHAB TAX CREDIT

Name SENATOR RICHARD GROBSCHEIDT

Street Address or Route Number _____

City and Zip Code _____

Representing 7TH SENATE DISTRICT

Speaking in favor:	<input type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input checked="" type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

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Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date: 1-17-02
Bill No. AB-624
Or
Subject SEN.

Name Kim Plache

Street Address or Route Number 2614 17th St

City and Zip Code RACINE 53405

Representing 21 Sen. District

Speaking in favor:	<input type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input checked="" type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

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Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date: 1/17/02
Bill No. AB 624
Or
Subject _____

Name Sen. Rosenzweig

Street Address or Route Number 1260 South

City and Zip Code _____

Representing _____

Speaking in favor:	<input type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input checked="" type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

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Assembly Hearing Slip

(Please print plainly)

Date:

1/17/02

Bill No.

AB624

Or

Subject

STEVE FREESE

Name

Street Address or Route Number

City and Zip Code

Representing

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Assembly Hearing Slip

(Please print plainly)

Date:

1/17/02

Bill No.

AB624

Or

Subject

JIM SEWELL

Name

Street Address or Route Number

City and Zip Code

Representing

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date:

1/17/02

Bill No.

AB624

Or

Subject

RAY CAREY/TOM LANDGRAF

Name

Street Address or Route Number

City and Zip Code

Representing

Coalition for Historic Preservation

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please promptly return this slip to the messenger at the committee.

Provided by:
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Madison, WI 53708

Assembly Hearing Slip

(Please print plainly)

Date:

1/17/02

Bill No.

AB 624

Or

Subject

Name

Rep. Mike Powers

Street Address or Route Number

PO Box 8953

City and Zip Code

Madison WI 53708

Representing

80th Assembly Dist.

Speaking in favor:

☐

Speaking against:

☐

Registering in favor:

☒

Registering against:

☐

Speaking for information only:

Neither for nor against:

☐

**Please promptly return this slip to the
messenger at the committee.**

Provided by:
Assembly Sergeant at Arms
411 West, State Capitol
Madison, WI 53708

Vote Record

Assembly - Committee on Housing

Date: 1.17.02
 Moved by: Wieckert Seconded by: Hebl
 Clearinghouse Rule: _____
 Appointment: _____
 Other: _____

AB: 624 SB: _____
 AJR: _____ SJR: _____
 AR: _____ SR: _____

☒ A/S Amdt: a 1129
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- ☒ Passage
☐ Introduction
☒ Adoption
☐ Rejection

- ☐ Indefinite Postponement
☐ Tabling
☐ Concurrence
☐ Nonconcurrence
☐ Confirmation

Committee Member

Rep. Tom Sykora, Chair
 Rep. Jeff Fitzgerald
 Rep. Dan Meyer
 Rep. Scott Walker
 Rep. Steve Wieckert
 Rep. Johnnie Morris-Tatum
 Rep. Tom Hebl
 Rep. Lee Meyerhofer

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 8 _____

☐ Motion Carried

☐ Motion Failed

Vote Record

Assembly - Committee on Housing

Date: 1-17-02
Moved by: Wieckert ~~Hebl~~ Seconded by: Hebl
Clearinghouse Rule: _____
Appointment: _____
Other: _____

AB: 624 SB: _____
AJR: _____ SJR: _____
AR: _____ SR: _____

A/S Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____
A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

☒ Passage

☐ Introduction

☐ Adoption

☐ Rejection

☐ Indefinite Postponement

☐ Tabling

☐ Concurrence

☐ Nonconcurrence

☐ Confirmation

Committee Member

Rep. Tom Sykora, Chair

Rep. Jeff Fitzgerald

Rep. Dan Meyer

Rep. Scott Walker

Rep. Steve Wieckert

Rep. Johnnie Morris-Tatum

Rep. Tom Hebl

Rep. Lee Meyerhofer

Aye

No

Absent

Not Voting

☒

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Totals:

8

☐ Motion Carried

☐ Motion Failed

FOLEY LARDNER MEMORANDUM

CLIENT-MATTER NUMBER
0083076-0101

TO: Wayman C. Lawrence
Thomas A. Landgraf
Gary J. Gorman

FROM: Raymond R. Carey

DATE: December 12, 2001

RE: Department of Revenue

This memo summarizes a meeting I had with the Executive Assistant to the Secretary of the Department of Revenue, Tom Ourada. The purpose of the meeting was to discuss the Department's concerns about Assembly Bill 624, as they were outlined in its Technical Memorandum dated November 13, 2001 (attached).

There were four major concerns raised by the Department. They include (1) whether the bill will create uncertainty as to when the credit may be claimed; (2) whether the bill will unintentionally injure the "s corp" status of corporations whose shareholders take advantage of the new law; (3) whether the Department will be able to pursue an identifiable tax target if there is a dispute with a person claiming the credit pursuant to a partnership agreement and (4) the feasibility of implementing a retroactive tax credit.

Issue One: Timing of the Credit

Under current law, a person may not claim the state's historic preservation credit ("the credit") unless the Secretary of the Interior ("the Secretary") approved the project prior to the start of construction. In addition, the credit is claimed after a building is put into service. Assembly Bill 624 changes the law so that a person is eligible for the credit if the state historic preservation officer ("SHPO") recommends approval of a project to the Secretary prior to the start of construction. The Department is concerned that this language, if not clarified, could be interpreted to allow a person to claim the credit before construction is complete, i.e., as qualified costs are incurred.

According to the Department, state law is coupled to federal law, and federal law doesn't allow claiming the credit until the Secretary approves the project. Apparently the Department believes that our language implies that the credit could be claimed upon the recommendation for project approval by the SHPO.

I don't understand how the Department reaches this conclusion. The proposal only impacts the *eligibility*, not the *timing*, of the credit – and is meant to quicken the pace at which historic rehab projects “get off the ground.”

I think the Department's anxiety is misplaced. However, I would like to know whether there would be any harm in adding language that would clarify when the credit may be claimed.

Issue Two: Treatment of S Corporations

The Department is vehement that there will be unintended consequences for s corporations if agreements are executed to modify the tax burdens of shareholders in the manner contemplated by Assembly Bill 624. Specifically, it believes that under such circumstances a “s corp” status could be terminated. These consequences would occur because of current IRS regulations which are mirrored by current state regulations. Without changing state regulations (a proposition greeted with horror by the Department), shareholders taking advantage of the law would face an unpleasant surprise. The Department said that a similar bill as the one we are proposing passed in Delaware and that state is just now discovering this particular mistake.

First, I have no idea whether the Department is correct. However, I'd like to know whether we care. It is my understanding that we are concerned about how the current law impacts partnerships and LLCs. Would there be a problem with amending the bill to remove “s corps” from it?

Issue Three: Who Will be Liable if There is a Problem?

The Department is concerned that there will be no clear taxpayer liability if the Department has a dispute with a person claiming the credit. It is afraid that the taxpayer will attempt to pass the buck to the partnership, claiming a “screwed up agreement.” It would like language that either (a) clearly holds the individual claiming the credit wholly responsible in the event of a dispute or (b) clearly holds the partnership wholly responsible in the event of a dispute.

I consider this issue a nonstarter, but I'd be interested in your thoughts.

Issue Four: Retroactivity

Retroactivity is always a hassle for the Department. It reiterated its concerns about printing forms etc ... Frankly, the Department's administrative headaches with retroactivity are the least of our concerns. If we can get the Legislature to agree to retroactivity in light of its \$1 billion deficit, we won't be stopped, nor should we be concerned, by the Department's objections.

Why Do We Care What the Department Thinks?

The Department's concerns will have some weight with legislators if they are not simply "this is too much of a hassle for us." If they have legitimate issues, we will be asked to address them. However, in the end, the Department's objections won't derail our efforts in the Legislature. The true value in addressing some of these issues, if possible, is in having the Department as an ally as the Governor decides whether or not to approve the language. Governor McCallum, unlike Governor Thompson, lends greater credence to the concerns of his agencies. Working cooperatively with the Department will help us get the Governor's approval, which is of course necessary for this bill to become law.

Please call with comments, questions or advice.

Attachment(s)

FOLEY LARDNER MEMORANDUM

CLIENT-MATTER NUMBER
0083076-0101

TO: Rob Richard
FROM: Ray Carey
DATE: January 9, 2002
RE: Drafting Instructions

The Department of Revenue has raised four issues (summarized in the enclosed 12/12/01 memo). We believe that issues 1 and 3, below, are "non-issues" but do not object to changing the bill to reflect the Department's objections. We agree that issues 2 and 4, below, should be changed. For all four issues we are offering the following drafting suggestions:

1. The first issue (timing of the credit) could be clarified by adding language such as: "Nothing in this paragraph permits a person to claim the credit prior to the completion of the construction of the project." This language would be added to the end of sections 1, 3 and 5.

2. The second issue relates to the treatment of s corporations (otherwise known as "tax-option corporations"). We agree that sections 2, 4 and 6 should be amended to ensure that the new method of calculating the credit (i.e., per an agreement among partners) does not apply to tax-option corporations. Current law should apply to the tax-option corporations.

3. The third issue relates to tax liability. The Department would like to make it clear that the partner claiming the credit is the party responsible for payment in case of a dispute with the Department. I would suggest adding the following language to sections 2, 4 and 6: "The party claiming the credit shall be solely responsible for any liability arising from a dispute with the Department over the claiming of that credit."

4. We agree with the Department that we should remove the retroactive language. Rather, in section 7, substitute standard prospective language.

Please call with questions.

2 + 4
Simple
amendments
would be
likely

Testimony to the Wisconsin State Assembly

**Committee on Housing,
Representative Tom Sykora, chairperson**

January 17, 2002

re: 2001 ASSEMBLY BILL 624

**(Changes in the state supplement to the
federal historic rehabilitation tax credit)**

James A. Sewell
Senior Preservation Architect
Division of Historic Preservation
Wisconsin Historical Society
816 State Street
Madison, Wisconsin

Good morning Representative Sykora and members of the Committee on Housing. My name is Jim Sewell and I am the Senior Preservation Architect in the Division of Historic Preservation of the Wisconsin Historical Society. I have administered historic preservation tax credit programs on behalf of the Society for the past 25 years,

Today, I offer the Society's enthusiastic support of Assembly Bill 624.

The Wisconsin Historical Society administers a program of tax credits for rehabilitation of historic buildings that will be used for the production of income. This is a nation-wide program, overseen at the federal level by the National Park Service. Since 1981, the program has rehabilitated nearly 550 historic buildings in Wisconsin and has resulted in more than \$600 million in tax-credit-eligible rehabilitation work. Last year alone, Wisconsin's program generated \$71 million in eligible construction work.

Key to the program's success has been the 5% state supplement to the credit that went into effect in 1987. At its passage, it was a unique state-based incentive and, although it required owners to delay their projects for as much as 60 days, it rewarded them with an additional state income tax credit. The results were impressive, and over the past 15 years, Wisconsin's has been one of the most successful programs in the nation in its utilization of this program.

The Wisconsin supplement helped to induce owners to invest in their historic buildings -- and it helped to persuade investors to focus on Wisconsin properties, rather than those in neighboring states. In recent years, other states have enacted their own incentive programs and some Wisconsin investors now seek out projects elsewhere. To compound the problem, because current laws do not allow investors to allocate tax credits among themselves, the supplement does not attract out-of-state residents to invest in Wisconsin's historic resources.

Assembly Bill 624 corrects these problems through two minor adjustments. It allows owners and developers to qualify for the Wisconsin supplement without having to wait for federal approval and it allows investors to allocate tax credits, by agreement, among themselves.

Enactment of Assembly Bill 624 will have the following positive effects:

- It will reduce the time that it takes owners to qualify for the Wisconsin supplement, thus reducing uncertainties and carrying costs. It should make participation in the program far more attractive to owners and developers.
- It will open the door to out-of-state investors who may have no Wisconsin income tax liability but who may wish to shift the credit to Wisconsin investors in return for other partnership benefits.
- Lastly, and most importantly, it should return more historic properties to viable economic use. The state loses hundreds of irreplaceable historic properties each year and this tax credit program is one of the few financial incentives available to owners and developers.

For these reasons, the Wisconsin Historical Society supports Assembly Bill 624.

Thank you for the opportunity to address the Committee on Housing. Please let me know if you have any questions.